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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CORONAVIRUS REPORTER, CALID INC.,
PRIMARY PRODUCTIONS LLC, DR.
JEFFREY D. ISAACS, on behalf of
themselves and all others similarly situated

Plaintiffs,

v.

APPLE INC., FEDERAL TRADE
COMMISSION,

Defendants.

Case No. 3:21-CV-05567-EMC

**DEFENDANT APPLE INC.'S
ADMINISTRATIVE MOTION FOR LEAVE
TO FILE A CONSOLIDATED OPPOSITION
TO PLAINTIFFS' MOTION TO STRIKE
AND REPLY IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS**

The Honorable Edward M. Chen

Pursuant to Civil L.R. 7-11, Defendant Apple Inc. (“Apple”) respectfully seeks an order permitting it to file a single, consolidated response to Plaintiffs’ Motion to Strike and Objections (Dkt. 51) and reply in support of Apple’s Motion to Dismiss (Dkt. 45).

On September 20, 2021, Apple moved to dismiss Plaintiffs’ First Amended Complaint (“Motion to Dismiss”). Dkt. 45. On September 24, 2021, Plaintiffs Coronavirus Reporter, Calid Inc., and Primary Productions LLC filed a “Motion to Strike; Objection to Defendant Apple’s Motion to Dismiss” (“Motion to Strike”), which moved the Court to strike Apple’s Motion to Dismiss under Federal Rule of Civil Procedure 12(f)(2) and also “serve[d] as the Plaintiffs’ objection to the 12(b)(6) motion.” Dkt. 51 ¶ 1. These “objections” were, in effect, Plaintiffs’ arguments in response to the Motion to Dismiss. *See generally id.* Nevertheless, on October 4, 2021, Plaintiffs filed a separate brief in opposition, Dkt. 54; as corrected on October 5, 2021, this brief is styled as an “Opposition to Defendant Apple, Inc.’s Motion to Dismiss Amended Complaint and Motion to Strike,” Dkt. 57. The two filings overlap in substantial portion and both provide Plaintiffs’ arguments in opposition to Apple’s Motion to Dismiss. Apple’s response to the Motion to Strike is due on October 8, 2021; any reply in support of Apple’s Motion to Dismiss is due on October 12, 2021.

To streamline the presentation of issues and reduce the volume of briefing filed with the Court, Apple promptly contacted counsel for Plaintiffs on the morning of October 5—the day after Plaintiffs filed their opposition—and proposed a stipulation whereby Apple would file a single 25-page brief on October 12, 2021, in opposition to the Motion to Strike and in reply in support of the Motion to Dismiss. Brass Decl. ¶ 2. Apple explained that this would be less than the 40 pages of briefing to which it was otherwise entitled. *Id.* Plaintiffs’ counsel stated that he would confer with his client regarding the proposal. *Id.* Receiving no further response, Apple’s counsel followed up today requesting Plaintiffs’ position. *Id.* ¶ 3. Plaintiffs’ counsel has not responded. *Id.* ¶ 4. To date, Plaintiffs have provided no reason for not agreeing to stipulate. *Id.*; *see also* N.D. Cal. Prof’l Guidelines § 4 (“Consistent with existing law and court orders, a lawyer should agree to reasonable requests for extensions of time when the legitimate interests of his or her client will not be adversely affected.”).

Apple therefore requests that the Court allow Apple to file one, 25-page brief on October 12, 2021, in opposition to the Motion to Strike and in reply in support of the Motion to Dismiss. In other

1 words, Apple's request amounts to an extension of one business day for Apple's deadline to oppose
2 the Motion to Strike. Granting this relief would not prejudice Plaintiffs in any way, nor would it impact
3 the scheduled hearing on the Motion to Dismiss and Motion to Strike set for November 4, 2021. It
4 would, by contrast, streamline the presentation of issues by allowing Apple to file a single brief (*i.e.*,
5 one 25-page brief instead of a 25-page opposition to the Motion to Strike and 15-page reply in support
6 of the Motion to Dismiss). This in turn would economize the parties' resources and also conserve the
7 Court's time.

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10 Dated: October 6, 2021

Respectfully submitted,

11 By: /s/ Rachel S. Brass
12 Rachel S. Brass

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